

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

July 22, 2009

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File # 08-0452
L.A.S.D. File # 008-07767-0382-013

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 23, 2008, fatal shooting of Christian Portillo by Los Angeles County Sheriff's Deputy [redacted] It is our conclusion that Deputy [redacted] acted in lawful self-defense.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Sergeant Tim Cain, LASD Homicide Bureau, on February 9, 2009. The District Attorney's Command Center was notified of the shooting on July 24, 2008, at approximately 2:53 a.m. The District Attorney Response Team, comprised of Deputy District Attorney Christina Fleming Buckley and District Attorney Senior Investigator [redacted] responded and was given a briefing and a walk-through of the scene.

Deputy [redacted] provided a voluntary statement to investigators which was considered as part of this analysis.

FACTUAL ANALYSIS

On July 23, 2008, Deputies [redacted] (driver) and Michael Maxwell (passenger) were on routine early morning patrol, accompanied by Deputy Sergio Rodriguez, a ride-along. Rodriguez' regular assignment was the Twin Towers Correctional Facility. [redacted] and Maxwell were dressed in full uniform and Rodriguez was dressed in civilian clothing. A few days before July 23rd, Sergeant Victor Clay from the Lennox Narcotics Team, told [redacted] that a male Hispanic was selling methamphetamine at [redacted] Dalerose Avenue. The male was described as

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
WEBSITE: http://da.co.la.ca.us

having a long ponytail and his vehicle was described as a green Jeep Cherokee which he used to deliver drugs to his customers. [redacted] and Maxwell had observed a green Jeep Cherokee parked at the location on prior occasions, but there was never anyone inside or near the vehicle.

On July 23, 2008, at approximately 11:43 p.m., [redacted] drove the patrol car from westbound Lennox Boulevard onto southbound Dalerose Avenue and approached the location. He saw the green Jeep Cherokee backed into the driveway of the location. The interior dome light was on and the driver's door was open. [redacted] Maxwell, and Rodriguez each saw there was one person sitting inside the vehicle. [redacted] stopped the patrol car approximately 10 to 20 feet north of the location and got out of the car followed by Maxwell and Rodriguez. Rodriguez stayed near the patrol car's trunk while Maxwell and [redacted] approached the Jeep Cherokee. The occupant of the car, subsequently identified as Christian Portillo, was looking down toward his lap and appeared unaware of the deputies' presence.

When [redacted] was within 20 to 30 feet of the Jeep, Portillo looked up and appeared startled and scared. [redacted] who was in full uniform, yelled, "Let me see your hands!" Portillo "dove" toward the floor board of the right passenger side of the vehicle out of [redacted] view. [redacted] and Maxwell were surprised by Portillo's reaction. [redacted] did not know what Portillo was doing and feared he was arming himself. Maxwell was also concerned and feared Portillo was either discarding something or reaching for something. [redacted] ran to the driver's side of the Jeep to the area between the front bumper and the open door. He pointed his gun at Portillo who was lying across the center console with his hands in the area of the front passenger floor board. [redacted] saw that some sort of cloth material was covering Portillo's right hand. [redacted] repeatedly yelled, "Let me see your fucking hands!" [redacted] saw something in Portillo's partially covered hand and believed it was a gun. It appeared to [redacted] that Portillo was using his left hand in an effort to pull the cloth off his right hand. At one point Portillo lifted his torso six to eight inches and looked at [redacted] before going back down with his hands pulled toward his chest area.

[redacted] moved from where he was standing to the area between the front door and the back door, and leaned his right shoulder against the B-pillar in an effort to make himself a smaller target.[1] [redacted] continued to yell at Portillo to show his hands. Portillo turned his body toward [redacted] with his right hand against his chest. [redacted] believed Portillo was "clearing a shooting path" and that his life was in danger. [redacted] recalled thinking, "He's going to shoot me. He's going to shoot me." He then heard two shots. When [redacted] did not feel any pain and realized he did not see a muzzle flash come from inside the Jeep, he realized the shots he heard were fired by him. Portillo fell against the center console and the passenger seat. [redacted] moved directly in front of the doorway of the Jeep Cherokee and held Portillo at gunpoint until assisting units arrived. [redacted] did not recall pulling the trigger and attributed his reaction to training and the perceived threat to his life and instincts.

Maxwell told investigators that when he saw Portillo "lunge" to the passenger side floorboard he moved from the passenger side of the Jeep to the to the driver's side to avoid a potential crossfire

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[1] An A-pillar is the shaft of material that supports the windshield on either of the windshield frame sides. The B-pillar is the roof support between a car's front door window and rear side window, if there is one.

situation. He was standing to [redacted] left near the A-pillar of the Jeep when the shooting occurred. He believed [redacted] had a clear view of Portillo and heard [redacted] repeatedly give Portillo verbal commands. Maxwell stated his reasons for not firing his weapon included the fact that he did not have a clear view of Portillo and did not know the level of threat.

Deputy Rodriguez was near the patrol car's trunk at the time of the shooting. He saw [redacted] and Maxwell approach Portillo's vehicle and he heard [redacted] repeatedly order Portillo to show his hands. Portillo gradually leaned over toward the passenger side of the vehicle until he was out of sight. Rodriguez saw muzzle flashes from [redacted] gun and realized there had been an officer involved shooting. Following the gunshots, Rodriguez said two males came "running out" approximately two to three houses [redacted] of [redacted] Dalerose Avenue. For officer safety reasons, he unholstered his gun and approached the driver's side of Portillo's vehicle. When he looked inside he saw that Portillo was no longer moving. After approximately 10 seconds he re-holstered his weapon and waited for back-up units to arrive.

Witnesses

Deputy Larry Villareal arrived at the scene at approximately 11:45 p.m. He was one of several deputies instructed to canvass the area for witnesses. Several of the people contacted stated they were asleep and did not hear anything. Several others heard commands being given to someone to put their hands up followed by gunshots. Others only heard gunshots. Amongst the people Villareal spoke to was [redacted]. She was contacted while standing in front of [redacted] told Villareal that she was walking northbound on the sidewalk in front of [redacted] Avenue when she saw a patrol car traveling southbound on Dalerose Avenue. She turned around to see where the car was going and saw it stop next to [redacted] Dalerose Avenue. She saw three "cops" get out of the patrol car and approach the front of the black truck. They had their guns pointed at the driver who was sitting in the truck with the driver's door open and the dome light on. The "cops" repeatedly yelled at the driver to put his hands up. [redacted] heard three gun shots. [redacted] told Villareal she was too upset to wait for homicide detectives to arrive and interview her. She does not have a permanent address and provided Villareal with her cell phone number.

Later that morning at approximately 7:45 a.m., Homicide Detective Richard Tomlin called [redacted] stated she was standing approximately five houses north of "the man" in the truck. She was on the same side of the street as the incident and saw a deputy get of a patrol car and approach the driver's side of the truck. The deputy said, "Show your hands. Show your hands." She next heard two gunshots. She refused to provide Tomlin with an address so that an in-person interview could be conducted and terminated the call. Later that evening Channel 7 Eyewitness News aired footage of [redacted] speaking to a reporter. [redacted] stated she was Portillo's [redacted] She said the deputies did not give Portillo an opportunity to comply with their commands and that she was standing five feet away when Portillo was shot by the deputies as he sat in his vehicle with his hands in his lap.

Autopsy

Portillo sustained multiple gunshot wounds and was pronounced dead at the scene by paramedics. A post mortem examination was performed on July 25, 2008, by Doctor Stephen Scholtz, Deputy Medical Examiner. The fatal gunshot wound perforated Portillo's left arm and entered his torso via his left side. The trajectory was left to right, horizontal, and upward. He also sustained gunshot wounds to his hands which were non-fatal.

Additional Evidence/Investigation

Portillo's vehicle was impounded and a thorough search was conducted. No firearms or narcotics were recovered. Several items were booked into evidence including a silver cell phone which was on the driver's seat.[2] On the passenger side floorboard detectives recovered a gray pair of jeans. Clipped onto the jeans was a brown colored flower shaped hair clip. There was also an eight inch screwdriver on the floorboard between the right front passenger seat and the right front passenger side door. In the center console detectives recovered a box cutter, a knife with a three to four inch serrated edged blade, and a multipurpose tool.

Specially trained dogs were brought in to assist in the search of Portillo's vehicle for the presence of narcotics and firearms. Canine "Ranger" alerted to the right front passenger compartment under the dash area indicating he detected the positive scent of a firearm or related residue. Various pieces of the dashboard were removed. "Ranger" continued to alert to the area in and around the air conditioning unit where the dash had been removed. "Ranger" also alerted to the portions of the dashboard which had been removed and laid on the ground.

CONCLUSION

According to the law in California, the use of deadly force in self-defense or in the defense of others is justifiable if the person claiming the right to use self-defense actually and reasonably believed (1) that he or she, or the person who he or she was defending was in imminent danger of death or great bodily injury, and (2) that it was necessary under the circumstances to use deadly force to avoid such imminent death or great bodily injury.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation. Graham v. Conner, (1989) 490 U.S. 386, 396-397.

If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. Actual danger is not necessary to justify the use of deadly force in self-

[2] Two other cell phones were recovered from Portillo's waist following the OIS.

defense. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo, (1948) 85 C.A. 2d 577.

[redacted] claim that Christian Portillo was merely sitting in his vehicle with his hands in his lap when he was shot is not credible. Blood smears inside the vehicle were concentrated on the passenger side seat and floor mat where deputies saw him leaning. [redacted] veracity is also called into question by the vast difference between the statements she made to law enforcement personnel and the statement she made when interviewed by the media. She gave Deputy Villareal and Detective Tomlin the impression that she did not know Portillo. She did not call him by name and referred to him as the man in the truck or words to that effect. It was only when she was on Channel 7 Eyewitness News that she claimed she knew Portillo and that he was her [redacted] [redacted] also made conflicting statements regarding where she was standing when the shooting occurred. She told Villareal and Tomlin she was five houses north of the location when the shooting occurred, however, when interviewed by the Channel 7 reporter she stated she was five feet away when Portillo was shot. It is inconceivable that she was standing within five feet of Portillo and the deputies did not see her.

The evidence examined shows when Deputy [redacted] encountered Christian Portillo, he repeatedly ordered Portillo to show him his hands. Portillo failed to comply and instead of putting his hands up, he immediately leaned over toward the passenger area and appeared to be reaching for something on the floorboard of the vehicle. [redacted] repeatedly yelled at Portillo to show his hands to no avail. It is unknown what Portillo was doing, however, his failure to comply, coupled with [redacted] observation of something in Portillo's partially concealed hand when he lifted his body, led [redacted] to believe Portillo was armed with a gun and preparing to shoot him.

We find that Portillo's actions prompted Deputy [redacted] to believe his life was in jeopardy and he responded with deadly force in lawful self-defense. Therefore, we are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By Christina F. Buckley

CHRISTINA FLEMING BUCKLEY
Deputy District Attorney
(213) 974-3888

c: Deputy [redacted] #[redacted]



Leroy D. Baca, Sheriff

County of Los Angeles

Sheriff's Department Headquarters

4700 Ramona Boulevard
Monterey Park, California 91754-2169



July 15, 2010



Deputy [redacted], #[redacted]
[redacted]

Dear Deputy [redacted]

On June 4, 2010, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under IAB File Number 2226763. You were also advised of your right to review the material on which the discipline was based.

You did not exercise your right to respond. The grievance period involved has now elapsed, with no change in the recommended action.

You are hereby notified that the Sheriff's Department considers your voluntary transfer from Lennox Station to [redacted] Station to be in lieu of formal discipline, provided you also attend the following mandated training:

- Lieutenant's Interactive Forum for Education (LIFE) Class (8 hours)
- Behavior Stress Management (4 hours)
- Tactical Communications Course (8 hours)
- TAS Training (16 hours)
    - Inoculation Training
    - Stress Training
    - Weapons Training
    - Shoot, Don't Shoot Training

An investigation under File Number IAB 2226763, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about July 23, 2008, you failed to conform to the work standards established for your rank and/or position and/or failed to take appropriate action during an incident, as evidenced by, but not limited to:

a) failing to develop a safe tactical plan and/or placing yourself and others at a tactical disadvantage as indicated by your frontal approach to a known drug dealer's vehicle while the suspect was seated inside and had the advantage of cover and concealment, and/or;

b) failing to accurately assess or anticipate the level of threat posed by the suspect, which directly resulted in a shooting, and/or;

c) failing to immediately communicate that threat to your partner.

Prior to determining this disciplinary action, the Department's Equity Oversight Panel and I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Matthew A. Dendo, Captain
Commander, Lennox Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy.

MAD:KM:md

c: Advocacy Unit
Cecil W. Rhambo Jr., Chief, Field Operations Region II
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Pico Rivera Station/unit Personnel File

3-01/050.10 PERFORMANCE TO STANDARDS

Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner which will tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department.

Incompetence may be demonstrated by:

A lack of knowledge of the application of laws required to be enforced,

An unwillingness or inability to perform assigned tasks,

Failure to conform to work standards established for the member's rank or position,

Failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention,

Absence without leave,

Unnecessary absence from an assigned area during a tour of duty.

In addition to the above, the following will be considered to be prima facie evidence of incompetence:

Repeated poor evaluations,

A written record of repeated infractions of the Department's rules, regulations, manuals or directives.

04/01/96 MPP

I certify that on the date indicated below, I received the original of the attached **LETTER OF SUSPENSION** under File Number ***IAB 2226763*** as set forth in Section 18.01 of the Rules of the Los Angeles County Civil Service Commission.

07-15-10

DATE

[redacted]

I certify that on the date indicated below, I served the original of the attached letter of suspension on [redacted] as set forth in Section 18.01 of the Rules of the Los Angeles County Civil Service Commission.

7/15/10

DATE

LT. Robert A. Smith

WITNESS SIGNATURE

ROBERT A. SMITH

WITNESS PRINT

Please return this page along with Timekeeping Notification within two (2) business days to:

MAGGIE DIXON
INTERNAL AFFAIRS BUREAU
4900 S. EASTERN AVE. #100
CITY OF COMMERCE CA 90040
(323) 890-5314



Leroy D. Baca, Sheriff

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



June 4, 2010

Deputy [redacted], #[redacted]
[redacted]

Dear Deputy [redacted]

You are hereby notified that it is the intention of the Sheriff's Department to consider your voluntary transfer from Lennox Station to [redacted] Station to be in lieu of formal discipline, provided you agree to also attend the following mandated training:

- Lieutenant's Interactive Forum for Education (LIFE) Class (8 hours)
- Behavior Stress Management (4 hours)
- Tactical Communications Course (8 hours)
- TAS Training (16 hours)
    - Inoculation Training
    - Stress Training
    - Weapons Training
    - Shoot, Don't Shoot Training

An investigation under IAB File Number 2226763, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about July 23, 2008, you failed to conform to the work standards established for your rank and/or position and/or failed to take appropriate action during an incident, as evidenced by, but not limited to:

    a) failing to develop a safe tactical plan and/or placing yourself and others at a tactical disadvantage as indicated by your frontal

approach to a known drug dealer's vehicle while the suspect was seated inside and had the advantage of cover and concealment, and/or;

b) failing to accurately assess or anticipate the level of threat posed by the suspect, which directly resulted in a shooting, and/or;

c) failing to immediately communicate that threat to your partner.

Prior to determining this action, the Department's Executive Force Review Committee and I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

At the time of service of this letter of intent, you were provided with a copy of the material on which the action is based. If you are unable to access the information provided in the enclosed CD, you may contact the Internal Affairs Bureau, at (323) 890-5300, to arrange an appointment for assistance in this regard.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

CECIL W. RHAMBO, CHIEF
FIELD OPERATIONS REGION II

CWR:KM:lh

c: Advocacy Unit
Employee Relations Unit
Chief Cecil Rhambo, FORII
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2226763)

I certify that on the date indicated below, I received the original of the attached Letter of Intent under File Number ***IAB 2226763.***

06-04-10

Date

[redacted] # [redacted]

I certify that on the date indicated below, I served the original Letter of Intent to [redacted]

6/4/10

Date

[signature]

WITNESS SIGNATURE

JAMES THORNTON JR.

WITNESS PRINT

Please return this page within two (2) business days to:

JACQUELINE POWELL
Internal Affairs Bureau
4900 S. Eastern Ave. #100
Commerce CA 90040
(323) 890-5311

761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: May 7, 2010

OFFICE CORRESPONDENCE

FILE NO. IV2226763

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP & TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING**

The purpose of this memo is to notify you of the Review Committee's findings and recommendations concerning the use of force incident which occurred on July 23, 2009.

The Committee met on November 19, 2009, and consisted of me, Commander Marilyn E. Baker, Leadership and Training Division and Commander Jack Jordan, Detective Division. The Committee determined that the use of deadly force was within policy. The committee also determined, on a 2 - 1 vote (with me dissenting), that the policy violation (Performance to Standards) was unfounded. The Committee's decision was reviewed by Undersheriff Larry L. Waldie who overturned the Committee's decision and determined that the policy violation was founded, as follows:

- as **Founded** the allegation that Deputy [redacted] #[redacted] violated the Department's Manual of Policy and Procedure Section 3-01/050.10: Performance to Standards, on or about July 23, 2008, Deputy [redacted] #[redacted] failed to conform to work standards established for his rank and position, and/or failed to take appropriate action during the incident, as evidenced by, but not limited to:

  a. Failing to develop a safe tactical plan and/or placing himself and others at a tatical disadvantage as indicated by his frontal approach to a known drug dealer's vehicle while the suspect was seated inside and had the advantage of cover and concealment; and/or

  b. Failing to accurately assess or anticipate the level of threat posed by the suspect, which directly resulted in the shooting; and/or

  c. Failing to immediately communicate that threat to his partner.

Deputy [redacted] # [redacted] will receive **no discipline**.

In lieu of discipline, he will attend mandated training. Additionally, he has voluntarily transferred to a different unit of assignment.

EBS:RSP/rsp

Table of Contents

IAB # IV 2226763 & SH2224639

PERSONNEL INVESTIGATION FORM, OFFICER INVOLVED SHOOTING FORM, AND INVESTIGATIVE SUMMARY

SUBJECT

[redacted]

WITNESS INTERVIEWS

Michael Mmaxwell
Sergio Rodriguez

EXHIBITS

MISCELLANEOUS DOCUMENTS

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: July 23, 2008	Bureau/Station/Facility: Lennox Station	Admin. Invest.? ☐ Hit? ☒

Incident Information

URN: 008-07767-0832-013	Date: July 23, 2008 Time: 2343 hours
City or Station: Lennox Station	Nature of Incident: Deputy [redacted] shot Susupect Portillo after the suspect reached under the passenger seat of his vehicle during a narcotics investigation, and simulated that he was armed.
Location: [redacted] Dale Rose Avenue, Lennox	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, **Residence** (circled), Rural, School, Street, Other: Driveway

Lighting (*circle only one*): **Darkness** (circled), Daylight, Other, **Street Lights** (circled)

Weather (*circle only one*): **Clear** (circled), Cloudy, Fog, Rain

Distance: N/A

Incident Type (*circle one or more*): Accidental, Armed Person, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, **Traffic Stop** (circled), Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: ______

Initiated by (*circle only one*): Arrest Warrant, Call, **Observation** (circled), One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol** (circled)

Total # of Shots Fired by Deputy: 2

Total # of Shots Fired by Suspect: 0

Aero Unit? ☐ Canine Unit? ☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Maxwell	Michael	L.	**EM** (circled) PM Day	**Regular** (circled) Overtime Off Duty
[redacted]	Rodriguez	Sergio	I.	**EM** (circled) PM Day	Regular Overtime **Off Duty** (circled)
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name		First Name		M.I.
Street Address	City	Zip Code	Work Ph	Home Ph
Last Name		First Name		M.I.
Street Address	City	Zip Code	Work Ph	Home Ph
Last Name		First Name		M.I.
Street Address	City	Zip Code	Work Ph	Home Ph

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
[redacted]	King	Susan		**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	[redacted]	[redacted]	

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	BERGNER	CHRISTOPHER	

PSTD Use Only

SH # ______________________

Officer Involved Shooting

URN: 008-07767-0832-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
July 24, 2008	0125 hrs.		

Employee #	Last Name	First Name	M.I
[redacted]	Garcia	Benjamin	L.
[redacted]	Flores	David	
[redacted]	Ault	Alicia	E.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Eag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E.	S	FH	BR	9	Y	Y	GS	CH

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 008-07767-0832-013

Involved Employee

E 1

Employee # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Sex: [redacted] Race: [redacted]	Rank: Deputy Sheriff	Unit Assignment: [redacted]	Work Assignment (Unit #, Module, etc.): [redacted]
ShiftTime (*circle only one*): [redacted]	ShiftType (*circle only one*): [redacted]	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: [redacted] Age: [redacted] Height: [redacted]	Duty Time (hrs): [redacted] Weight: [redacted]	Clothing (*circle only one*): Pain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest (circled)	Other Factors:
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted] Prior Shootings? [redacted]	Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Beretta 92FS	Caliber 9mm	# Shots 2	Weapons Fired Brand: Caliber # Shots
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank:	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: Age: Height:	Duty Time (hrs): Weight:	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit: Prior Shootings? ☐	Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand:	Caliber	# Shots	Weapons Fired Brand: Caliber # Shots
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank:	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: Age: Height:	Duty Time (hrs): Weight:	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit: Prior Shootings? ☐	Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand:	Caliber	# Shots	Weapons Fired Brand: Caliber # Shots
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

See Other Side

Officer Involved Shooting
Suspect Information

URN: 008-07767-0832-013

Suspect Information

S 1

Last Name Portillo		First Name Christian	M.I.
AKA Last Name Portillo		First Name Leonidas	M.I. A.
Sex: M Race: Hispanic	Street Address: [redacted]	City [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 35 D.O.B. 12/20/72	Height: Weight:	FBI # [redacted]	CII # [redacted]
Booking # N/A	Primary Charge: N/A	Secondary Charge:	N/A
Coroner Case? ☒	Coroner Case # 2008-05239	Intoxication/Drug Usage? ☒	Substance Used: METHAMPHETMINES
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make JEEP		Model: CHEROKEE	Year: 95

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

INVESTIGATIVE SUMMARY
SUSPECT DECEASED

INCIDENT: ON-DUTY, HIT SHOOTING

IAB FILE NUMBERS: IV2226763 AND SH2224639

URN#: 007-06556-1434-499

DATE / TIME: WEDNESDAY, JULY 23, 2008, 2343Hours

LOCATION: [redacted] DALEROSE AVENUE, LENNOX

INVOLVED DEPUTY: [redacted], DEPUTY, #[redacted]

SUSPECT: CHRISTIAN PORTILLO MH/35 (DECEASED)

The Internal Affairs Bureau Force and Shooting Response Team responded to the City of Lennox after being notified of an on-duty hit shooting which resulted in the death of Suspect Christian Portillo [MH/35]. The roll-out team consisted of Sergeant Benjamin Garcia and Sergeant David Flores, under the supervision of Lieutenant Alicia Ault.

CRIME SCENE/LOCATION

[redacted] Dalerose Avenue is a north/south residential roadway which is bordered by Lennox Boulevard on the north and 111th Street on the south. The roadway surface was constructed of a black asphaltic surface with no visable street markings. The west side of the roadway was illuminated by street lights mounted to wood utility poles.

The suspect vehicle was a dark green Jeep Cherokee, four door, license plate number [redacted] The vehicle was parked in the driveway facing westbound, toward the street. Both interior dome lights were illuminated and the driver's door was open. All of the windows were in the up position and the rear windows, including the rear cargo window were tinted. The suspect's vehicle was approximately 4 feet east of the east sidewalk of Dalerose Avenue.

Please refer to Exhibit A, pages 41 & 42 for additional information.

SYNOPSIS:

On Wednesday, July 23, 2009, at approximately 2343 hours, Deputy [redacted] shot and killed Suspect Portillo as he reached underneath the right front passenger seat of his vehicle and simulated he was armed with a possible handgun.

On the night of the incident Deputy [redacted] and his partner were assigned to Unit [redacted] on the [redacted] shift. On this date, they had a sworn ride-along named Sergio Rodriguez who was a deputy assigned to Twin Towers Correctional Facility. [redacted] was the driver, Maxwell was the bookman and Rodriguez was in the right rear passenger seated behind Maxwell.

Approximately two to three days prior to the incident [redacted] received narcotic intelligence information from the Lennox Station Narcotic Bureau Sergeant Victor Clay regarding the narcotics activity of Suspect Portillo. The information indicated that Portillo was possibly selling Methamphetamine out of his house [Location] and delivering the narcotics to parties in his green Jeep Cherokee. The suspect was described as a male Hispanic, long hair, usually worn in a ponytail. [redacted] shared this information with Maxwell and had done [IAB interview pages 5 & 6 and Homicide Interview, pages 6 - 8].

IAB note: **Please refer to Exhibit A, page 67, for Sergeant Victor Clay's statement verifying he passed on narcotic sales information to the EM deputies involving the suspect.**

Based on the aforementioned narcotics information, [redacted] and Maxwell had driven past the location, multiple times per shift, in the days prior to the incident in order to detect any type of narcotic activity at the location [Homicide interview, page 7 & 8]. During these patrol checks they had seen the green Jeep Cherokee parked at the location but did not see the suspect.

On the night of the incident, [redacted] and Maxwell decided to conduct another patrol check of Portillo's residence for any type of criminal activity. As they traveled southbound on Dalerose Avenue from Lennox Boulevard, they noticed Portillo's Jeep Cherokee parked in his driveway. The vehicle was backed in the driveway, facing westbound, approximately five feet from the sidewalk. As the deputies neared the location, approximately two homes north of the location, they noticed the dome light of Portillo's vehicle was illuminated. They also noticed Portillo was seated in the driver's seat behind the steering wheel with the front driver's door completely opened. Portillo was looking down at his lap as if he was occupied with an unknown item.

Based on the aforementioned narcotics information, the deputies decided to contact Portillo by stopping their marked black and white patrol vehicle in front of Portillo's driveway. They parked their patrol vehicle in a slight southeast diagonal direction approximately [redacted] west of the east curb line of Dalerose Avenue [Exhibit D, pages 11 & 12]. [redacted] quickly exited the patrol vehicle via the driver's door and began to walk toward Portillo's vehicle. As he took approximately two steps toward the suspect's vehicle, Portillo looked up in [redacted] direction with a surprised expression on his face. Portillo then laid down across the the center console onto the right front passenger seat as if he was reaching for an unknown item somewhere underneath the right front passenger seat. Portillo's movement caused the deputies to lose sight of Portillo.

As [redacted] advanced toward Portillo's vehicle, he repeatedly ordered Portillo to show him his hands, but Portillo refused to comply. He advanced while pointing his Department issue Beretta at the front windshield area with his gun mounted tactical flashlight activated. As [redacted] reached the A-pillar of Portillo's vehicle he was able to look inside through the vehicle's windshield to see Portillo laying across the center console on his stomach while his upper torso was laying across the right front passenger seat. His arms were extended toward the right front floor board as if he was retrieving or placing something near the right front seat.

IAB note: **The A-pillar is located at the vehicle driver's door hinges and the B-pillar is located at the door column frame that separates the front driver's door area and the left rear door area of the four-door vehicle.**

Upon closer examination [redacted] saw the suspect was holding an unknown item in his right hand that was wrapped or draped with a light-colored cloth or towel that measured approximately 18 inches by 12 inches. The item appeared to be a handgun based on it's outline shape of having a barrel approximately 6 inches long and the manner the suspect was holding the item was consistent with holding a gun by it's grip. The suspect was attempting to remove the cloth from the item with his left hand, but was unsuccessful.

IAB note: **A pair of blue jeans were recovered from the right front floor board of the vehicle. Please refer to Exhibit D, pages 13 - 15, and Exhibit A, page 36, for photographs and evidence taken from the crime scene.**

[redacted] indicated he kept ordering the suspect to show him his hands while at the A-pillar area. The suspect ignored [redacted] orders and at one point, rose approximately six inches off the right seat front seat, turned his head, and made eye contact with [redacted] Due to the suspect's actions and his belief the suspect had a handgun, [redacted] felt the suspect was armed and posed a deadly threat to him. At this point, as a tactical maneuver, he moved to the vehicle's B-pillar area while the suspect's upper body was on the passenger seat attempting to remove the cloth from the possible handgun. The suspect was facing away from [redacted] with his back to the B-pillar area. [redacted] took a position at the B-pillar, blading his body so his right side of his body was leaning up against the approximately four inch

wide B-pillar frame. His upper body and head were slightly leaning toward the open driver's door as he pointed his handgun at the suspect.

While at the B-pillar, Portillo began to raise from his laying position from the right front seat back to a seated position in the driver's seat. As he did so, he removed the cloth from the unknown item with his left hand while holding the object with his right hand. He immediately placed the item up against his chest as the suspect began to rotate his body back into a seated position in the driver's seat, towards [redacted] position. At this point, [redacted] felt that the suspect was rotating his upper body in order to create an open path to fire a weapon from the item he was holding to his chest. In self defense, [redacted] who had his duty weapon pointing at Portillo while at the B-pillar, fired two rounds at Portillo. [redacted] indicated he was holding his weapon with his right hand, rotated to the left, in a gangster stye side position. He was within four feet of the suspect when he fired.

Both rounds struck the suspect. One round entered Portillo's left chest area, and the other struck portions of his left and right hands. He was pronounced dead at the location.

[redacted] estimated the entire incident took approximately 15 second from the time he stopped the patrol car to the time Maxwell radioed that they were involved in a shooting [Exhibit H].

DISTRICT ATTORNEY'S LETTER OF OPINION:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office reviewed the fetal shooting of Christian Portillo involving Deputy [redacted] In their Letter of Opinion, dater July 22, 2009, they concluded Deputy [redacted] acted in a lawful self-defense.

Please refer to Exhibit B for additional information.

HOMICIDE INVESTIGATION:

The following information was taken from the **homicide investigation** [Exhibit A] which was conducted by Sergeant Timothy Cain and Investigator Robert Kenney.

"On 07-24-08 at 0345 hours, Investigators contacted **DEPUTY SERGIO RODRIGUEZ,** #[redacted] MH/A, in an annex adjacent to Lennox Station. Also, present during the interview were Sergeants David Flores and Ben Garcia, from the Sheriff's Department Internal Investigation Bureau, and Attorney-at-Law Derald J. Brenneman, from the law office of Green and Shinee, representing Deputy Rodriguez.

Deputy Rodriguez told Investigators he was assigned to the Twin Towers Correctional Facility, where he worked in the [redacted] floor [redacted] Deputy Rodriguez was hired on 10-25-06 and [redacted]

On the date and time of the incident, Deputy Rodriguez was participating in a "sworn ride-along" at Lennox Station. The shift in which he was participating started at [redacted] hours on 07-23-08. He said Deputy [redacted] was a Custody Assistant at the Twin Towers Correctional Facility and that Deputy [redacted] had briefed him and other deputies regarding patrol preparation. In response to this, Deputy Rodriguez sent an e-mail to Deputy [redacted] requesting a ride-along. Deputy Rodriguez said that he had participated in one other 'ride-along,'approximately one month prior to the date of this incident. This 'ride-along' also occurred at Lennox Station, where he accompanied Deputy Sean Kennedy.

At the time of the incident, Deputy Rodriguez was wearing an untucked, black, button down short sleeve shirt, blue denim pants, and black casual dress shoes. Since he was participating on this 'ride-along' on his own time, per Departmental policy, he was not wearing a uniform. He was wearing a department issued bullet proof vest underneath his shirt. He also carried his Departmental issued Berreta 92 FS on his right hip. He had his flat badge in his left rear pocket, a full size Streamlight flash light, which at the time of the interview was still in the radio car. He did not wear handcuffs, but had a handcuff key. In addition to the previously mentioned weapon, Deputy Rodriguez had a backup weapon; a Smith & Wesson, .38 Special, Model 642; which he kept in his front left pocket.

Deputy Rodriguez said he borrowed some Reporting District Maps, which belonged to a female deputy (later determined to be Deputy Wengert). He kept the maps with him in the backseat of the radio car. Deputy Rodriguez sat on station blankets for comfort, due to the hard plastic rear seats of the radio car.

Deputy Rodriguez said he arrived at Lennox Station at approximately 2020 hours. He spoke with Sergeant Bergner, who was the Station Watch Commander. He then interacted with the trainees who were preparing for shift. Deputy Rodriguez attended briefing at approximately [redacted] hours. At approximately 2120 hours, he and Deputies [redacted] and Maxwell ate. They were assigned to the Lennox Station "Central Area," which Investigators knew was the actual unincorporated Lennox area.

Deputy Rodriguez said there was nothing unusual about the first part of the shift. He recalled backing up a two-man unit at a hotel (NFD), located on Prairie Avenue. He believed that backup involved a disturbance call. He also recalled they backed up another unit with a traffic stop. In addition, he recalled making two vehicle stops, both of which were uneventful.

Deputy Rodriguez explained while they were on routine patrol, Deputy [redacted] who was driving the radio car, turned from westbound Lennox Boulevard onto southbound Dalerose Avenue. As they approached the area of [redacted] Dalerose Avenue, Deputy Rodriguez saw a single occupant sitting upright in a Grand Cherokee, which was backed into the driveway, facing Dalerose Avenue.

Deputy [redacted] stopped the radio car and illuminated the Grand Cherokee with the radio car's spotlight. All three of the deputies exited the vehicle. Deputies [redacted] and Maxwell were talking; however, Deputy Rodriguez could not hear their conversation. The rear window of the radio car was down; therefore, he could open the door from the back seat (passenger side) and let himself out. Deputy Rodriguez said within seconds all three of them were out of the vehicle. Deputy Rodriguez walked around to the rear of the radio car and stopped. Deputy Rodriguez stood at that location, while the two Deputies approached the driveway. Deputy Rodriguez heard Deputy [redacted] say, "Let me see your hands!"

Deputy Rodriguez said the male in the Grand Cherokee was still seated upright. The male then leaned to his right, toward the front passenger side of the vehicle. Deputy [redacted] then gave two more commands of "Let me see your hands!" Deputy Rodriguez said that the male in the Grand Cherokee was either reaching for something or trying to tuck something under the seat. When Deputy Maxwell exited the radio car, he (Deputy Maxwell) walked around the front of the patrol vehicle, toward the right front side (passenger side) of the Grand Cherokee. Deputy [redacted] walked toward the front driver's side of the Grand Cherokee.

Deputy Rodriguez noticed that the dome light of the Grand Cherokee was on and the front driver's door was open. Deputy Rodriguez stood to the rear of the patrol car, near the patrol vehicle's trunk. Deputy Maxwell ended up near the front of the Grand Cherokee; however, he did not go past the right front wheel well of the vehicle. Deputy [redacted] appeared to have a full view of the vehicle's occupant. Deputy [redacted] positioned himself just past the open driver's door. Deputy Rodriguez said Deputy [redacted] had a "straight view" of the vehicle, explaining that Deputy [redacted] positioned himself so that he was able to see the male completely through the vehicle's open door.

At this point in the interview, at 0430 hours, Deputy Rodriguez requested a break. The interview started again at 0434 hours; however, Sergeant Flores from IAB had to leave because of a prior commitment. After the break, Investigators again questioned Deputy Rodriguez as to where the Deputies were located at the time of the incident. Deputy Rodriguez explained that Deputy [redacted] walked wide enough around the vehicle to clear the open door. Deputy [redacted] started giving verbal commands near the area where the driveway meets the street.

Deputy Rodriguez said Deputy [redacted] approximately four times, gave the command, "Let me see your hands!" Deputy Rodriguez was uncertain if Deputy Maxwell also gave verbal commands. Deputy Rodriguez explained that as soon as the deputies made the approach

to the vehicle, the occupant of the vehicle gradually leaned over. Deputy [redacted] continued to give verbal command, as the suspect continued to extend his body even further. Deputy Rodriguez described his action as a "stutter," indicating the suspect moved his body a little to the right and extended even further, to the point where Deputy Rodriguez could not see him.

At this time, Deputy Rodriguez heard two to three gunshots. Deputy Rodriguez knew the gunshots came from Deputy [redacted] weapon, due to the fact that he saw the muzzle flashes coming from Deputy [redacted] weapon. He did not see any muzzle flashes from the other side of the vehicle (referring to Deputy Maxwell's location). Deputy Rodriguez said even after the shooting, Deputy [redacted] continued to give verbal commands of, "Let me see your hands!" Deputy Rodriguez estimated that Deputy [redacted] gave these instructions at least two to three times.

After the shooting, Deputy Rodriguez said that he moved to the driver's side of the radio car where he remained. Deputy Maxwell started to put out the "998" radio traffic. It should be noted that "998" is a radio code to indicate that a deputy has been involved in a shooting. Deputy Rodriguez recalled that Deputy Maxwell said something to the effect, "Shots fired; all deputies accounted for". Approximately 30 seconds later, assisting patrol units started to arrive at the location. The responding deputies checked on their (Deputies [redacted] Maxwell, and Rodriguez) condition.

Deputy Rodriguez said a male and a female came from the back area of the driveway, toward the location where the shooting occurred. They were instructed to stay back and not come toward the vehicle. A perimeter was established. Approximately two to five minutes later, paramedics and fire department personnel responded southbound on Dalerose Avenue. When the fire department arrived, they checked on the condition of the suspect, while the suspect was still inside of the vehicle. Eventually, the firemen removed the suspect from the vehicle and moved him to a lawn north of the location.

At this point of the interview, Investigators went back over several points with Deputy Rodriguez. Deputy Rodriguez said he did not actually see the deputies remove their handguns from their holsters, since he was in the process of getting out of the radio car himself. He said the deputies were pointing their weapons at the occupant of the vehicle. He estimated that the deputies were approximately three to four feet from the suspect's vehicle. Deputy Rodriguez was uncertain if Deputy Maxwell was holding a flashlight or was using a two-handed grip on his weapon. He remembered that Deputy [redacted] was using a two-handed grip. He did not think that Deputy [redacted] had his flashlight.

Deputy Rodriguez said he did not have his weapon drawn; however, he did have his flashlight out and the flashlight was pointed to the occupant of the vehicle. After the shots were fired, Deputy Rodriguez said he un-holstered his weapon, since he looked to the north and saw people "running out." He recalls seeing two males, approximately two to three houses [redacted] on the [redacted] of the street. He estimated these males were approximately

17 or 18 years old. Deputy Rodriguez said he had his weapon out for officers safety purposes; when it was out it was in his right hand, along his right side, and pointed down. He re-holstered his weapon approximately 10 seconds after the shooting, when he no longer perceived a threat.

Deputy Rodriguez said after the shooting he could see that the occupant of the vehicle was no longer moving. He could see the top of the suspect's shoulders and noted that he was wearing a white T-shirt.

At this point of the interview Deputy Rodriguez drew a diagram to explain the location and positions of the event as discussed. This diagram will become a permanent part of this case file [Exhibit A, page 70].

Deputy Rodriguez said he did not have [redacted]. This was the first time he was involved in a deputy involved shooting, either as a victim or as a witness. Wednesday and Thursday were his normal RDO's (his regular days off) and that he had a normal amount of sleep prior to the start of the shift. Prior to going in service for the evening, Deputy Rodriguez said Deputies [redacted] and Maxwell discussed with him patrol preparation and officer safety. Deputy Rodriguez did not recall discussing activities on Dalerose Avenue prior to the incident.

Deputy Rodriguez described the Jeep Cherokee as a mid to late 90's model, forest green in color. Deputy Rodriguez said they were driving a marked black and white Ford Crown Victoria. Neither of these vehicles were moved after the incident. At no time, either before or after the shooting, did Deputy Rodrigurez hear the occupant of the Jeep Cherokee say anything. Deputy Rodriguez said that he is bi-lingual in Spanish. Deputy Rodriguez believes that paramedics were requested by Deputy Maxwell when he put out the "998" information. Deputy Rodriguez said they continued to treat the Jeep Cherokee as a threat until the first backup unit arrived. The vehicle, referring to the green Jeep Grand Cherokee, was well illuminated.

Deputy Rodriguez said he did not fire either of his weapons. Investigators examined Deputy Rodriguez' Berreta (9MM, blue steel, Serial number M9[redacted] duty weapon. Investigators caused the weapon to be unloaded, where it was found to contain 15 live bullets in the magazine and one live bullet in the chamber. The bullets were head stamped "Win 9MM Luger." Investigators also noted the weapon had laser grips, which Deputy Rodriguez said were not activated at the time of the incident. Investigators also checked Deputy Rodriguez's backup weapon, which was located in his left front pocket. They observed this weapon was a stainless steel, Smith & Wesson handgun, .38 caliber, Model #SPL Plus P Air Weight, with a Serial #DAY[redacted] Investigators noted five live bullets in the cylinder of the weapon. Deputy Rodriguez said this weapon was registered in his name."

"On 07-24-2008 at approximately 0539 hours, Investigators interviewed Deputy **MICHAEL MAXWELL,** #[redacted] at the Lennox Station Annex. Also present during this interview was

Maxwell's legal representation, Derald Brenneman, with the Law Firm of Green and Shinee, and Sergeant Benjamin Garcia, #[redacted] assigned to Internal Affairs Bureau.

Deputy Maxwell stated that he was first assigned to Lennox Station Patrol in August of 2007. His normal shift is the "early morning" shift. His regular days off are Thursdays and Fridays. The evening prior to this incident he had his normal amount of sleep. During this deployment cycle his normal unit was [redacted] shift, with a regular partner, Deputy [redacted] Their normal hours were [redacted] hours to [redacted] hours. He and Deputy [redacted] had been partners for approximately three months.

Deputy Maxwell stated that his shift started at [redacted] hours, at which time he and Deputy [redacted] attended briefing. It was during briefing they learned they had a 'ride-along' assigned to their unit for that shift. After the briefing, Deputy [redacted] gave the 'ride-along', Deputy Rodriguez, a tour of Lennox Station and discussed officer safety issues, as well as location awareness. Deputy [redacted] told Deputy Rodriguez that they (Deputies [redacted] and Maxwell) would verbalize the names of the streets, as they drove. Deputy Maxwell explained that he and Deputy [redacted] would tell each other what street they were on, when they made turns, in case they had their heads down or were looking at the MDT. He said this was done as a normal practice. Deputy Maxwell observed that Deputy Rodriguez had several Lennox Station Reporting District Maps. At approximately 2145 hours they started patrol.

On this particular evening, Deputy [redacted] was the driver, Deputy Maxwell was the passenger, and Deputy Rodriguez was in the rear passenger seat of the black and white marked patrol vehicle. Deputy Maxwell said nothing unusual occurred prior to the shooting. They assisted on a [redacted]. They also [redacted] in the Central Area of the Lennox patrol area.

Deputy Maxwell said he and Deputy [redacted] had specific information about a location on Dalerose Avenue. He explained that Sergeant Victor Clay, assigned to the Lennox Narcotics Team, had received information that there was an individual using a specific vehicle to sell narcotics. The location was [redacted] Dalerose Avenue. The vehicle was a green Jeep with stock wheels and oversized tires. The suspect was a male Hispanic with a ponytail. This information had been relayed to Deputy Maxwell via his partner, Deputy [redacted] who had obtained the information from Sergeant Clay.

Deputy Maxwell stated that he, his partner, and Deputy Rodriguez were southbound on Dalerose Avenue from Lennox Boulevard when they observed the suspect's vehicle in the driveway at the suspect's location. The vehicle was facing west (toward the street) and the interior dome light of the vehicle was on. They observed a male Hispanic in the driver's seat with the front door fully opened. The vehicle was a green Jeep Cherokee with stock wheels with what appeared to be oversized tires. There were no external lights on the Jeep Cherokee as it illuminated. The Jeep Cherokee was illuminated by the patrol vehicle's head lights and street lights.

Deputy Maxwell stated that when they patrol, they normally have their spot lights on. When they observed the suspect, they flashed the spotlights in his direction and then extinguished the lights, as to not draw attention. The patrol vehicle was moving at approximately five to ten miles per hour, southbound on Dalerose Avenue, when they observed the suspect.

Deputy Maxwell said their patrol vehicle stopped just north of the driveway of the location. As the vehicle was stopping, Deputy Maxwell said he and his partner were saying words to the effect of "there he is" or "there is somebody in that car."

Deputy Maxwell and Deputy [redacted] exited the patrol vehicle when it came to a stop. Deputy Maxwell walked in front of the patrol vehicle, toward the passenger side of the Jeep Cherokee. He was following Deputy [redacted] who was moving quickly. Deputy Maxwell could not see what the suspect was doing inside the vehicle; he approached the vehicle almost head on and observed the suspect through the windshield. Deputy [redacted] approached the vehicle on the driver's side and approached the vehicle at an angle to observe the interior of the vehicle. Deputy Maxwell did not know where Deputy Rodriguez was at this point, as he was focused on the suspect's vehicle.

Deputy Maxwell drew his weapon as soon he exited the vehicle in a one handed grip (right-handed). He did not know when Deputy [redacted] drew his weapon, although he knew he had. He did not know if Deputy Rodriguez had drawn his weapon.

Deputy Maxwell heard Deputy [redacted] say four or five times words to the effect "let me see your hands, show me your hands." Deputy Maxwell was very concerned regarding the fact he was not able to see what the suspect was doing with his hands. Deputy [redacted] was the only one who spoke commands.

Deputy Maxwell stated when he first observed the male Hispanic (the suspect), the male was the sole occupant of the vehicle. He was seated in an upright position, behind the wheel. As the deputies approached, the suspect lunged over to the right, toward the passenger's floor board area, twisted his body, and extended both of his hands toward the floor. The suspect was doing this as Deputy [redacted] was giving him commands. Deputy Maxwell could not see the suspect's hands or arms; he could only see the suspect's left shoulder and left side.

Deputy Maxwell was concerned regarding this behavior, since this was not normal behavior when uniformed deputies gave commands. At this point, Deputy Maxwell believed the suspect was still reaching for something or discarding something, as this behavior was not normal.

Deputy Maxwell initially approached the Jeep on the passenger's side, but when he observed the suspect lunge, he moved to the driver's side. He did this to avoid a cross fire situation

with his partner and to remove himself from the kill zone, in case the suspect retrieved a weapon. Deputy Maxwell observed Deputy [redacted] in the apex of the driver's door. He believed his partner had a clear view of the suspect.

Deputy Maxwell heard more verbal commands given by Deputy [redacted] At this point, Deputy Maxwell was directly to Deputy [redacted] left and that is when he heard two gunshots, which he believed came from Deputy [redacted] weapon. He did not see a muzzle flash come from the vehicle nor from the area of Deputy [redacted] After hearing the gunshots, Deputy Maxwell moved around to Deputy [redacted] right side. Deputy Maxwell then heard more commands given regarding the suspect's hands.

Deputy Maxwell clarified and stated he was standing next to the "A" pillar of the driver's side of the suspect's vehicle, when he heard the last verbal commands given, prior to the gunshots. When Deputy Maxwell moved, he was then standing by the "B" pillar on the driver's side of the vehicle, between the driver's door and the passenger's door.

After the shooting, Deputy Maxwell stayed on Deputy [redacted] right side and could see inside the vehicle. He could partially see the suspect's hands, which appeared to be pulled toward his chest. He believed the suspect's hands were empty. He could not see the floor or the passenger side of the seat.

Deputy Maxwell then heard voices on the east side of the driveway (behind the suspect's vehicle) and observed an older Hispanic couple. He ordered them back; they complied and said nothing.

Deputy Maxwell told Deputy [redacted] to stay with suspect, as he put out the radio traffic. Deputy Maxwell advised that it was not "Code 4" at this point, as the situation was still not safe. He estimated that it took approximately 30 to 45 seconds after the shooting to advise other Lennox units that his unit had been involved in a shooting, provide the location, to advise there were not any outstanding suspects, and to advise there was not a need for a containment.

Deputy Maxwell heard via the radio, after his broadcast, that fire personnel were staging prior to entering the location. At that point, Deputy Maxwell asked for additional units to respond to his location, but he had not requested fire to his location at that point. Deputy Maxwell clarified and said he heard that the Fire Department was staging at the Fire Station, which is on Lennox Boulevard, just north and east of the location, and was only seconds away.

Deputy Maxwell said other units arrived and took the handle on the situation and began delegating tasks. Fire personnel and paramedics were allowed to respond to the location, after two additional units had arrived. At that point, there was enough security to render aid to the suspect.

Deputy Maxwell said he did not see the victim removed from the vehicle nor first aid rendered. Once all of the tasks had all been delegated, he and Deputies [redacted] and Rodriguez were transported to Lennox Station. He and his partner were transported by Lennox Station Detective Maurizi. Deputy Rodriguez was transported by Sergeant Guevara.

Deputy Maxwell stated he and Deputy [redacted] had driven by the location several times to check for activity relating to narcotics and had looked for the suspect. They had seen the vehicle at the location on prior occasions, but never occupied. He said he did not know what type of narcotic activity the suspect was involved with. Deputy Maxwell stated from his training and experience it is not uncommon for drug traffickers to be armed.

Deputy Maxwell stated he did not fire his weapon because he did not believe it was safe for him to do so. He has been instructed that bullets issued by our department are not the ideal type of ammunition to penetrate windshields; therefore, he did not want to hurt his partner by having bullets ricochet off of the windshield. He also did not have a clear view of the suspect. Because of his position, he did not know the level of threat.

Investigators observed Deputy Maxwell was dressed in a Class "A" long sleeve shirt with patches on both sleeves, a badge on his left breast, and a name plate on his right breast. He was wearing Class "A" pants with a Sam Browne, which contained his duty weapon a (92 F-Barretta, Serial #[redacted] loaded with fifteen rounds in the magazine and one in the chamber. He had two ammunition pouches, each containing one 15 capacity magazine containing 9 millimeter ammunition. He had a baton holder, a collapsible Asp, two handcuff cases, a single ammunition pouch (containing one magazine with 15 bullets of 9mm), keys, and pepper spray. Deputy Maxwell's radio was attached to his belt and the microphone was clipped to his shirt, across his chest. It should noted that Deputy Maxwell had another receiver attached to his right chest pocket, which was used for tactical purposes. Deputy Maxwell was wearing a county issued ballistic vest. He did not carry a backup weapon. Investigators examined Deputy Maxwell's duty weapon and all of his magazines and confirmed he had a full compliment of bullets. Deputy Maxwell's weapon was returned to him by Investigators."

"On 7-24-08 at 0650 hours, [The homicide] investigators [Sergeant Cain and Investigator Kenney] met with **DEPUTY** [redacted] A, #[redacted] This interview took place in the Lennox Annex adjacent to Lennox Station. Also present during the interview was Attorney Derald J. Brenneman, from the Law Office of Green and Shinee.

Deputy [redacted] said he was hired by the Sheriff's Department on January 17, 2002. He [redacted] August of 2007, at which time he was assigned to Lennox Station. Deputy [redacted] said he did not have any [redacted]. Prior to this

incident, Deputy [redacted] was not involved in any other deputy involved shootings, either as a shooter or as a witness. During the month of July he was assigned to Unit [redacted] shift, with his regular partner, Deputy Michael Maxwell.

Deputy [redacted] said that prior to the start of shift on 7-23-08, he had a normal amount of sleep. The shift started at [redacted] hours, at which time he attended briefing. On the night of this incident, a 'ride-along,' Deputy Sergio Rodriguez, was assigned to ride with Deputy [redacted] and his partner. Deputy [redacted] told Investigators that he found out that he was going to have a 'ride-along' accompany him a few days prior to this incident. He said that Deputy Rodriguez worked at the [redacted], Twin Towers Correctional Facility, [redacted]

Deputy [redacted] said all three of them attended briefing. Initially, they had difficulty finding a vehicle. He estimated they went in service ("10-8") between 2145 and 2200 hours. Deputy [redacted] recalled making a [redacted], all of which were uneventful. In addition, they ate prior to this incident.

When asked why they drove down Dalerose Avenue, Deputy [redacted] replied he had received information from Sergeant Clay, from the Lennox Narcotics Team, that narcotic activity was occurring on that street. A few days prior to this incident, he received information from Sergeant Clay that a male Hispanic was dealing methamphetamine at [redacted] Dalerose Avenue. The male was described as having long hair, which he kept in a ponytail. The vehicle was described as a newer green Jeep. In addition, Deputy [redacted] received information that numerous citizen complaints had been received regarding the above.

Sergeant Clay told Deputy [redacted] that the suspect was the "party guy," meaning he would be called by individuals and deliver drugs to parties using his jeep. Prior to the night of this incident, Deputy [redacted] said they had driven by the location multiple times since receiving the information. He had seen the vehicle on numerous occasions; however, he did not see any individuals associated with this vehicle. He recalled seeing the vehicle backed into the driveway in the past.

Prior to this incident, Deputy [redacted] said he drove slowly down Dalerose Avenue, from westbound Lennox Boulevard onto southbound Dalerose Avenue. He estimated his speed was approximately ten miles per hour. Their plans were to drive by the location, then return to Lennox Station in regards to a detail, [redacted].

Deputy [redacted] said he was driving with his high beams on; he did not have the vehicle's alley lights on nor did he have his driver's side spot light on. He did not believe his partner had his spot light on. He said he and his partner had been partners for approximately three months and they use their spot lights often. Deputy [redacted] said he saw the suspect so fast that he did not believe he had time to turn his spot light on.

Deputy [redacted] estimated he was about one to two properties north of the location when he first observed an occupant in the above described vehicle. The vehicle's dome light was on and the driver's door wide open. Deputy [redacted] continued to drive southbound and stopped his vehicle approximately 10 to 20 feet north of the driveway of the location. Deputy [redacted] said the purpose for their stopping the radio car was to talk to the suspect and to ascertain if he matched the description of the person they had heard was involved in narcotic activity. Deputy [redacted] did not recall if Sergeant Clay had provided him a name.

Deputy [redacted] believed he had parked the vehicle in the middle of the street, due to the fact that he normally drives the radio car down the center of the street if there is not oncoming traffic. Deputy [redacted] said he stopped and exited his radio car. At this time, the occupant was looking straight down to his lap. Deputy [redacted] could not see the suspect's hands. The suspect then looked up. Deputy [redacted] said when he exited his radio car he had his weapon drawn; however, the weapon was pointed to the ground and he was holding his weapon in his right hand.

Deputy [redacted] did not have a flashlight in his hand, due to the fact that he had a tactical light attached to his firearm. When Deputy [redacted] exited his radio car and approached the suspect's vehicle, this light was not on. The light can be activated by either a thumb switch or by putting pressure on the grip of the pistol.

Deputy [redacted] estimated that he was approximately 5 to 10 feet from his radio car and 20 to 30 feet from the suspect's Cherokee, when the suspect looked up and realized the deputies' presence. Deputy [redacted] said when the suspect looked up, his eyes became large. He felt the suspect knew that they were the police, since they were in uniform with a marked black and white unit behind them.

At first the suspect had a normal look, which changed to a startled scared look. Deputy [redacted] said that he yelled at the suspect, "Let me see your hands!" As Deputy [redacted] was yelling the suspect "dove" to the floor board area or the right passenger side of the vehicle, at which time Deputy [redacted] lost sight of the suspect. Deputy [redacted] said he did not stop approaching the vehicle until he was near the vehicle. Deputy [redacted] said that when he first started approaching the vehicle, he had not determined whether or not if he was going to the passenger side or the driver's side of the Jeep Cherokee. Deputy [redacted] said he was not even close to the suspect's vehicle when the suspect looked up and gave him the startled look. Deputy [redacted] said after the suspect dove to the floor area, he (Deputy [redacted] ran to the area of the vehicle that was between the Jeep's front bumper and its open door.

Deputy [redacted] said his gun was pointed at the suspect and at that time his tactical light was on. Deputy [redacted] said he observed the suspect lying across the center console; his torso was across the center console and his hands were in the area of the front passenger floor board. The suspect's back was turned toward Deputy [redacted] The suspect's buttocks was still on the driver's seat. Deputy [redacted] estimated the suspect dove inside of the vehicle

while he (Deputy [redacted] was still in the street area. Deputy [redacted] turned on the tactical light of his weapon, when the suspect dove and he (Deputy [redacted] ran up to the vehicle. When Deputy [redacted] lost site of the suspect, Deputy [redacted] did not know what the suspect was doing.

Deputy [redacted] clarified and said he sprinted to the vehicle when the suspect dove down. At that time, Deputy [redacted] was holding the gun using a two-handed grip. He used the pressure grip to activate the tactical light on the weapon. He sprinted to the vehicle because he was "scared." Since the suspect dove, Deputy [redacted] was unable to see what the suspect was doing. Deputy [redacted] was afraid that the suspect was "arming himself." He sprinted to the Jeep's "A" pillar and used this pillar as minimal cover. Deputy [redacted] said his left shoulder was against the car and his pistol was toward his chest.

Deputy [redacted] explained he was trying to make a smaller target of himself by turning to his side. Deputy [redacted] said that the suspect's hands were near the passenger's side floor board of the Jeep Cherokee. When he reached the vehicle, he went to a one handed grip; his right arm was bent at the elbow in an approximate 90-degree angle. The palm of Deputy [redacted] hand was almost touching his chest; he did not know where his left arm was at that time. Deputy [redacted] said the tactical light of his weapon was on and the vehicle's dome light was on; therefore, the interior of the Cherokee was well illuminated.

Deputy [redacted] said the suspect's hands were in the right front passenger side floor board area of the front seat region of the Jeep Cherokee. The suspect's body was across the center console. In addition, Deputy [redacted] said that some type of cloth material (i.e., jacket, towel, or T-shirt) was covering the suspect's right hand and whatever his right hand was holding. Deputy [redacted] thought the suspect was trying to remove this cloth material with his left hand. Deputy [redacted] reiterated that he thought the suspect might have had something in his right hand. During this entire time, Deputy [redacted] was yelling, "Let me see your fucking hands!" "

At approximately 0750 hours, **DEPUTY DALE FALICON,** from the Sheriffs Crime Lab Firearm Section, arrived at Lennox Station. He requested Deputy [redacted] weapon at that time; therefore, Investigators interrupted the interview and had Deputy [redacted] provide Investigators [Cain & Kenney] with the weapon. When Deputy [redacted] removed the weapon from the holster, Investigators observed that the weapon was on "safe." Deputy [redacted] said prior to the start of every shift he always checks his weapon to make sure that it is loaded to capacity. He followed this routine on the date of the incident and knew that one round was in the weapon's chamber and that the magazine inside of the weapon had fifteen rounds.

At this point of the interview, Investigators asked Deputy [redacted] if he knew how many rounds he fired. Deputy [redacted] replied that he heard two shots. When Investigators examined the weapon, they found it contained fourteen live rounds, which consisted of thirteen in the

magazine and one in the chamber for a total of fourteen (it should be noted that particular model Beretta had a sixteen round capacity). The head stamps of the rounds in the weapon were "WIN 9MM LUGER."

Investigators also noted that Deputy [redacted] weapon had a tactical light attachment. This attachment, a "Sure Fire model X300," was attached to the dust frame of the weapon. This light attachment was activated by squeezing the weapon's grip or by activating a toggle on the rear of the light attachment. The light attachment had a Serial #AD[redacted] Investigators observed that the serial number of the County issued Beretta was BER[redacted], the weapon was a Beretta 92FS, blue steel handgun, with "Hogue" after market rubber grips. This weapon was turned over to Deputy Falicon, Lab Receipt #J989471 issued.

After the brief break to provide the Crime Lab with Deputy [redacted] weapon, Deputy [redacted] told Investigators he yelled multiple times at the suspect to see his "fucking hands," so the suspect knew he was "not playing around." When asked why he thought it was important to see the suspect's hands, Deputy [redacted] replied, "My mind set at that point was that he was arming himself with a gun."

Deputy [redacted] went on to say that the suspect had an object in his hands and that the object appeared large and in the shape of a barrel of a gun. Deputy [redacted] was asked to describe the cloth or material that was covering the hard "object" the suspect was holding. Deputy [redacted] described the fabric material as light in color; however, he was not certain. He then clarified and said, "In my mind it wasn't a hard object, in my mind it was a gun, he had a gun in his hand." Deputy [redacted] then went on to say, "Without a doubt, 100%, he had a gun in his hand."

Deputy [redacted] articulated that he thought the suspect had a gun by the way the suspect was positioning his hands. The suspect's right hand was underneath the fabric and this hand was "shoved in the back of the cloth." What Deputy [redacted] perceived to be the barrel of the gun extended out approximately 5 to 6 inches underneath the cloth. Deputy [redacted] said the "configuration" was consistent with someone holding a pistol. The "silhouette" of the length and width, couple with the way the suspect was holding his hands, led Deputy [redacted] to believe that the suspect had a gun. Deputy [redacted] could not see if the covered hand was open or closed. Deputy Lamb said, "As soon as I saw that thing in his hand and he tried to take it off, I said to myself, 'He has a gun.'"

Deputy [redacted] further stated that he thought the suspect was going to shoot or kill him with the gun. He then explained his reasons why he felt the suspect was going to harm him: The first reason was the look on the suspect's face when the suspect first observed the deputies arrive. The second reason was the suspect's actions of diving down to the passenger's floor board. Deputy [redacted] did not think that a reasonable person would have dove to a car's floorboard when contacted by the police, especially after being ordered by the police to display his hands. The third reason was the fact the suspect was hiding

himself and his actions. Deputy [redacted] said, "He knew that we knew he was there."

The final reason was the way the suspect was holding his hands and wrist. Deputy [redacted] demonstrated that the bottom of the suspect's right hand would have been touching or nearly touching the passenger side floorboard of the vehicle. The suspect's hands would have been pointed in a southwest direction, toward the front corner area of the suspect's vehicle. The suspect's right hand was pointed downwards, the suspect's hand was bladed vertically. Deputy [redacted] said that is the same way that he (Deputy [redacted] holds and shoots a gun; therefore, he thought the suspect was holding a weapon.

At this point in the interview, Deputy [redacted] demonstrated, by using a towel provided by Investigators, how the suspect's right hand and arm would have appeared at the time of the incident. The suspect's right hand was at an angle, the cloth item was draped over his right hand, wrist, and arm area, exposing only 6 to 8 inches of the suspect's right arm below the elbow. For demonstration purposes, Deputy [redacted] hand was at an angle and his palm was toward his body; however, Deputy [redacted] hands were vertical in the shape of a gun, but Deputy [redacted] told Investigators that he did that for only demonstration purposes. Deputy [redacted] emphasized he thought the suspect was covering a gun.

Deputy [redacted] said he was standing adjacent to the "A" pillar of the suspect's vehicle. The suspect appeared to be trying to pull the cloth off of his right hand, by using his left hand. Deputy [redacted] continued to give verbal commands for the suspect to display his hands. The suspect paused, looked up, and looked directly at Deputy [redacted] The suspect pulled his torso up 6 to 8 inches. The suspect, who was still holding the cloth, went back down. The suspect pulled his hands toward his chest area, which caused Deputy [redacted] to lose sight of both of the suspect's hands.

Fearing the suspect knew his position, Deputy [redacted] moved from the area of the vehicle's "A" pillar to the area of the "B" pillar. He used the "B" pillar as minimal concealment. Deputy [redacted] right shoulder was against the pillar; Deputy [redacted] was holding his firearm in his right hand. The firearm was tilted sideways (palm toward ground). Deputy [redacted] did not recall where his left arm was at that time.

Deputy [redacted] continued to give numerous verbal commands of, "Let me see your hands!" The tactical light on Deputy [redacted] weapon was on. Deputy [redacted] said the suspect never let go of what Deputy [redacted] thought was a gun. The suspect turned his body, brought his right hand against his chest, and turned toward Deputy [redacted]

Deputy [redacted] said his state of mind was that the suspect was clearing a shooting path. Deputy, [redacted] further stated when the suspect cleared his shoulder (meaning no obstructions), he (Deputy [redacted] recalled waiting for the muzzle flash to appear from the suspect's gun. Deputy [redacted] went on to explain that he thought the suspect was holding a gun and he (the suspect) was trying to remove the cloth material which covered the gun.

Deputy [redacted] said the suspect looked up and saw him (Deputy [redacted]. Deputy [redacted] felt the suspect knew that he was there, knew he was a Deputy Sheriff or a police officer, and knew that Deputy [redacted] was pointing a gun at him. Deputy [redacted] also felt the suspect heard his verbal commands to display his hands. Despite all of this, the suspect still turned away and brought his hands back into his chest area. When the suspect cleared his shoulder, Deputy [redacted] felt that he was going to be shot.

Deputy [redacted] stated there were no obstructions between himself and the suspect. Deputy [redacted] reiterated that he thought the suspect was going to shoot and kill him. He then heard two shots. Investigators asked Deputy [redacted] where he thought the shots came from. He replied, "It ended up being my gun." Deputy [redacted] was not certain if the suspect had fired or he had fired; however, he did not see a muzzle flash come from the suspect's gun, nor did he (Deputy [redacted] feel any pain.

Deputy [redacted] did not want to check on his physical condition, because he was concentrating on the suspect and the threat he felt the suspect still posed. Deputy [redacted] was uncertain where he struck the suspect; however, he recalled seeing an injury to one of the suspect's hands, possibly his left hand. Deputy [redacted] also recalled seeing the cloth item the suspect was holding fall to the vehicle's floorboard.

Deputy [redacted] was asked if the fact his weapon had already been examined had influenced his answer in regards to hearing two gunshots. He replied, "I heard two shots. I don't remember even pulling the trigger one time. I heard two gunshots. I never consciously said in my head, 'I am going to pull the trigger.' It was, 'He's going to shoot me, he's going to shoot me.' Pop, pop."

Deputy [redacted] said after the shooting, the suspect looked at him. Deputy [redacted] could see both of the suspect's hands and continued to detain him at gunpoint. His partner, Deputy Maxwell, put out an emergency radio broadcast, which included the fact that they had been involved in a "998" (officer involved shooting), their location, the fact that all deputies were accounted for, and all "pertinent" information. Deputy [redacted] continued to hold the suspect at gunpoint He recalled de-cocking his weapon at some point in order to render his weapon safe and to put the weapon back into a double action position ("lever up; lever down"). He reiterated he was detaining the suspect at gunpoint until assisting units arrived. Deputy [redacted] specifically remembered not having "tunnel vision," since he was cognizant of his partner's presence.

Deputy [redacted] recalled a man and a woman walking west down the location's driveway, toward the suspect's vehicle. Deputy Maxwell instructed them to stop. Deputy [redacted] explained the suspect vehicle was the vehicle furthest west on the driveway. At this point, responding deputies started to arrive. Deputy [redacted] was relieved from this position of holding the suspect at gunpoint by an unknown deputy. At that point, the suspect was no longer moving; however, Deputy [redacted] believed there still was a gun in the vehicle. Deputy

[redacted] said the suspect did not say a word during this entire event. After the shooting, Deputy [redacted] could see that the suspect was struggling; however, he did not feel it was safe to enter the vehicle.

Deputy [redacted] was subsequently transported to Lennox Station, along with Deputy Maxwell, by Detective Maurizzi.

Deputy [redacted] was asked if he briefed or provided instructions to the "ride-along," Sergio Rodriguez, what to do in case an emergency situation occurred. Deputy [redacted] advised Deputy Rodriguez that he was a Deputy Sheriff and that if something happened, he was to act accordingly. He instructed Deputy Rodriguez not to stay in the vehicle if he and his partner exited the vehicle. He explained to Deputy Rodriguez that he considered the vehicle a "death trap" and if they made traffic stops or exited the car, he was to exit as well. Deputy [redacted] knew that Deputy Rodriguez possessed the following police equipment: his departmental issued Beretta pistol, a Lennox Station radio, a flashlight, and a bullet proof vest.

Deputy [redacted] was asked if he was aware of the location of the other two deputies when this incident occurred. He knew that both deputies had exited the vehicle and was confident that neither one of them was in his line of fire when the shooting occurred. After the shooting occurred, he was aware that Deputy Maxwell was on his left side. After the shooting, he (Deputy [redacted] stood in the doorway of the Jeep Cherokee. He could see both of the suspect's hands and the fact that whatever the suspect was holding (Deputy [redacted] used the word "gun") had dropped to the floorboard.

Deputy [redacted] was aware that Deputy Maxwell was standing behind him, because he (Deputy [redacted] went to use the radio and Deputy Maxwell said, "[redacted] I got it, if got it, I got it." When Deputy Maxwell was saying this, he was to Deputy [redacted] left. Deputy [redacted] elaborated and recalled that after the shooting, he (Deputy [redacted] moved to the doorway of the car. He left the "B" pillar after he shot (at this point of the interview he again reiterated that he did not recall the shooting). When the suspect fell against the center console and against the passenger's seat, Deputy [redacted] left his position of cover and "squared" himself directly in the doorway. Deputy [redacted] could see the suspect's hands. Deputy [redacted] went "lever down; lever up" (de-cocked his weapon). At that point he knew Deputy Maxwell was to his left.

Deputy [redacted] estimated from the time he stopped the radio car until the time his partner put out emergency traffic, was about 10 to 15 seconds. Deputy [redacted] estimated the suspect was aware of his presence for about 8 or 9 seconds. Deputy [redacted] estimated that he took two steps out of his radio car when the suspect saw him.

Deputy [redacted] reiterated that Sergeant Clay from the Lennox Narcotics team provided him with information regarding narcotics activity that was occurring at the location. The information contained a suspect description, an address, and a vehicle description.

Investigators asked Deputy [redacted] based on his training and experience, if it was unusual for suspects involved in narcotics activity to be armed. He replied that it was "extremely common" for such suspects to be armed.

Deputy [redacted] said they only drove on Dalerose Avenue once during the shift. He did not recall activating his spot light; he was not certain if his partner activated the passenger side spotlight. Deputy [redacted] confirmed that the suspect was the sole occupant of the Jeep Cherokee. Deputy [redacted] did not see anyone else on the street nor in the yards, in fact the suspect was the only person he saw on the street.

When Deputy [redacted] was asked if he was trained to shoot in bursts, he replied, "Yes." He further explained he was trained to shoot three round bursts, which included two shots to the body and one shot to the head. Deputy [redacted] was asked, in his opinion, had his training and instincts kicked in during this incident. He replied, "One hundred percent, because I did never consciously pull the trigger."

When Deputy [redacted] was asked how much time he felt the suspect needed in order to remove the fabric material and to be ready to fire, he replied less than a second. He then gave examples of watching training and internet videos which showed how fast suspects can fire firearms. Deputy [redacted] added, "As soon as that shooting path was cleared, when he bladed his body to the left, as soon as that shooting path was clear he could of fired."

At the conclusion of the interview, Deputy [redacted] was asked if there was anything he would like to add that was not asked of him. In response to this, he reiterated based on his training and experience, coupled with his knowledge of the location, the vehicle, and the suspect; along with the suspect's furtive movements and non-compliance to verbal commands, Deputy [redacted] said, "I was one hundred percent certain he was arming himself with a firearm."

No other eyewitnesses were identified.

AUTOPSY REPORT :

Per the autopsy report, the supect suffered multiple gunshot wounds. There was gun shot wound perforating the left arm and penetrating the chest that was described as fatal wound. There were graze wounds to both hand that was non-fatal. One bullet was recovered from the suspect's remains during his autopsy. Please refer to Exhibit A, pages 89 - 111 for further information.

PHYSICAL EVIDENCE:

One Winchester brand 9mm Luger expended casing was located at the location, 44 feet 4 inches east of the west curb line of Dalerose Avenue and approximately 118 feet north of the south property line. Another Winchester 9mm casing was located in the front compartment, left of the center console. There was bullet strike on the interior of the front

passenger door and no bullet was recovered. The bullet appeared to travel in a general northbound direction, left to right direction within the vehicle. There was skin tissue located on the dashboard and front passenger window.

Please refer to Exhibit A, pages 42 to 46 and pages 73 to 79

IAB INVESTIGATION:

Deputy [redacted] homicide interview was consistent with his IAB interview. According to [redacted] IAB interview, he indicated that at no time, either before or during the incident, was he in a crossfire situation with Maxwell or Rodriguez. Although he was not aware of their position at the time of the shooting, he was sure they were not in his line of fire [redacted] IAB interview, Page 57]. He said that Maxwell initially walked over to the passenger side of the suspect's vehicle but eventually moved over to the left front of the suspect's vehicle while [redacted] was at the A-pillar area.

[redacted] believed the suspect had armed himself while [redacted] was at the A-pillar position. He stated, "He was leaned over the seat, you know, in this fashion. His upper torso or torso area was in the passenger seat, the front passenger seat. And his hands and arms were in the floor, the passenger floor board,, the front passenger floor board. He had something in his hand. And I believed 100 percent that it was a gun. And it was wrapped in a towel or shirt or a cloth or jacket or something. And he was trying to take the cloth off of whatever, to uncover the object, whatever it was. I saw what I 100 percent believed at the time was the barrel of a gun underneath the cloth, the way that the cloth was draped over. It was almost like it was draped over, you know, a barrel of a gun. I could see that his wrist was bladed vertically, you know, just like how we shoot. You know, he was kind of leaned over. It was kind of a really weird position for him. But his elbow was either on or really close to the floor board, and that gun, in my mind, was pointed at the front driver's side corner of the front bumper. So kind of diagonally, right, but right in my direction.

[redacted] was asked the following question in regards to changing his position from the A-pillar to the B-pillar after he was sure the suspect had armed himself with a handgun [page 19]:

Garcia: And I guess what I need to ask you at this point is, while you're at the A-pillar, knowing that you were certain he was arming himself, why did you aggress the situation further rather than retreat back to the black-and-white [patrol vehicle] and order him [suspect] to come out, without risking your life by getting closer to him?

[redacted] There's a number of reasons. The first reason is, because this area, you know, if I can refer to Photograph 5 [Exhibit D] here...between his front bumper and my front bumper is quite a large area. And I'm not gonna...I mean, that's the kill zone right there. I'm not gonna, definitely not turn my

back to him and run away, 'cause now I have no sight of this, of what the suspect's doing at all, period. I'm not gonna walk backwards 'cause I don't know the area. I don't wanna trip and fall. And I'm a real easy target if I'm laying on the ground. And additionally, you know, I'm, I'm comfortable and I'm confident in that close quarters. I know I'm gonna hit what I'm shooting at. I can see him. And he thinks I'm in one spot, and I'm now in another spot. And that, I'm comfortable with, with that, you know, as far as moving over, it took, you know, a split second, half a second, to take the step around the door to come here. He had no idea I had even moved at that point. So I have the advantage, and I'm not gonna give him the advantage by retreating, the tactical advantage, at least, for him to pop up and he can shoot through that windshield when he sees me running or walking backwards or going. There's no cover whatsoever between his car and my car. None whatsoever.

[redacted] also indicated he was not 100% sure he had fired any rounds at the suspect until after he saw the suspect was bleeding [page 28].

Garcia: That's when the two rounds went off. You were not even sure if it was you firing or him firing at you. Is that correct?


[redacted] Yes, sir. I knew, I mean almost instantly that it was not him because I didn't see any muzzle flash from him, and I saw a wound immediately. But I really hope you guys are understanding what I'm saying. I'm not, by no means saying it was an accidental discharge. I'm saying that the thoughts that were going through my head were not, I need to shoot this guy before he shoots me. It was, all I had running through my veins at that point was adrenalin and fear, you know. I was, I couldn't believe that this was happening. All of these crazy thoughts are going through my head, like this is really happening. And it's in a split second. But it's amazing how many thoughts can go through your head in that short period of time.

Garcia: Well, that was one of my questions I was gonna come to later on. Whether you felt it was an accidental discharge. And you've already answered that. You said no.


[redacted] Absolutely not. No, no ands, if's or but's about it. I do not feel this is an accidental discharge. And you know....

Deputy Maxwell indicated in his homicide interview he was by the A-pillar of the suspect's vehicle when [redacted] fired his rounds at the suspect from the B-pillar position. He heard [redacted] give the suspect several orders prior to the shooting for the suspect to show him his hands, but the suspect failed to comply. Maxwell did not fire his weapon because he could partially see [redacted] through the front wind shield, thus wanting to avoid shooting [redacted] He also indicated that he did not perceive the suspect as a direct threat because he could not see, from his position at the A-pillar, what the suspect was reaching for. He

thought [redacted] had a better position at the B-pillar to observe what the suspect had in his hands [Page 38].

Deputy Rodriguez indicated in his IAB interview he was at the rear of the patrol vehicle as he watched [redacted] and Maxwell approach the suspect's vehicle. He initially saw Maxwell walk over to the right front fender area of the suspect's vehicle, but moved to the left front fender area of the suspect's vehicle prior to [redacted] firing his rounds into the vehicle. Rodriguez never saw [redacted] and Maxwell in a crossfire situation during this incident.

IAB INVESTIGATOR OBSERVATIONS:

Based on photographs and diagrams of the incident, the physical evidence at the shooting scene (positions of shell casings, positions of the vehicles, and the evidence recovered at the scene) appeared to be consistent with the deputies' versions of the event.

WEAPON USED BY DEPUTY PERSONNEL:

Deputy [redacted]

Service Weapon -	Beretta, model 92FS (Serial Number BER [redacted] 9mm Luger caliber semi automatic pistol
Ammunition -	Two (2) rounds fired from one magazine
Shell Casings -	Two (2) expended Luger Brand casings were recovered near where Deputy [redacted] reported firing.
Last Qualified -	[redacted]
Last Trained -	

Deputy [redacted] weapon was examined, test fired, and found to be functional and within Department standards by Los Angeles County Sheriff's Department Scientific Services Bureau, Firearms Identification Section, under lab receipt number J973769 (Refer to Exhibit A, page 78).

WEAPON USED BY SUSPECT

None recovered

CRIMINAL HISTORY

An inquiry into the Consolidated Criminal History Reporting System (CCHRS) revealed that Suspect Portillo has [redacted]

IAB Lieutenant Alicia Ault checked to see that the Watch Commander, Sergeant Christopher Bergner, took reasonable steps to ensure that the involved party and witnesses did not discuss the incident among themselves or with uninvolved persons prior to being interviewed by the assigned investigators, as well as the involved party and witnesses personnel did not collectively consult with their attorney or representative. In addition, IAB Lieutenant checked to see if the watch commander attempted to have the involved party and witnesses personnel gather in the company of a supervisor until they have provided a statement to the assigned investigators.